

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1, 2 and 4-7 remain in the application and are subject to examination.

Claim 1 has been amended. No claims have been added or canceled.

In "Claim Rejections – 35 USC § 112," item 2 on page 2 of the above-identified Office Action, the claims have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph.

More specifically, the Examiner states that the phrase "respective said inner web" in claim 1 lacks an antecedent. It is assumed that the Examiner is objecting to the singular form of web, whereas the plural is used elsewhere. Although the "webs" certainly include "a web," the phrase, which has been present in the claim since August 2, 2006 without objection, has been amended.

It is accordingly believed that the claims meet the requirements of 35 U.S.C. § 112, second paragraph. The above-noted change to the claim is provided solely for clarification or cosmetic reasons. The change is neither provided for overcoming the prior art does it narrow the scope of the claim for any reason related to the statutory requirements for a patent.

In "Claim Rejections – 35 USC § 102," item 3 on pages 3-4 of the Office Action, claims 1, 2 and 7 have been rejected as being fully anticipated by U.S. Patent No.

5,080,858 to Nylund or U.S. Patent No. 5,530,729 to Gustafsson under 35 U.S.C. § 102(b).

In "Claim Rejections – 35 USC § 103," item 4 on page 4 of the Office Action, claims 4 and 5 have been rejected as being fully anticipated by Gustafsson under 35 U.S.C. § 102(b).

The Examiner's explanation of his rejection in the Communication dated January 23, 2009, is appreciated. Although it is believed that the claims were patentable over the cited art in their previous form, claim 1 has been amended to make this even clearer.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a spacer for a fuel assembly of a boiling water reactor having a fuel assembly channel with an inner side, the spacer comprising:

a frame formed with outer webs and inner webs oriented crossways with respect to one another, said outer webs having an outer side facing towards the inner side of the fuel assembly channel in an assembled state;

gills formed on said outer side of said outer webs and projecting outward to a given extent from said outer side, said gills each including an opening in said outer web defining an upper edge of said opening and an adjoining wall region of said outer webs both being pre-curved outward;

a plurality of projections each formed by an outward bulge in a wall of said outer webs, said projections each having a lower edge extending to and being identical with a lower edge of a respective one of said outer webs and projecting outwardly to a greater extent than said given extent of said gills,

said projections each being disposed in a region of a respective one of said inner webs; and

a deflector lug formed integrally on a lower edge of said projections.

Accordingly, regarding support for the changes, claim 1 now calls for:

a fuel assembly channel with an inner side, as mentioned in lines 9-10 on page 7 of the Specification of the instant application;

the outer webs having an outer side, as mentioned in lines 23-24 on page 6 of the Specification, which face towards the inner side of the fuel assembly channel in an assembled state, as shown in Figs. 3 and 4 of the instant application; and

the gills each including an opening in the outer web defining an upper edge of the opening and an adjoining wall region of the outer webs both being pre-curved outward, as mentioned in lines 24-26 on page 6 of the Specification of the instant application.

The Nylund reference discloses a spacer which has outer webs on its outside, but has neither gills as defined by the instant application nor projections which project further from the outside than the gills. This also applies to the skirt 12 (in Figs. 4, 5, 7 and 8) which is formed integrally at the lower edge of the outer web in Nylund. It is noted that the definition of gills can be found between page 1, line 21 and page 2, line 2 of the Specification of the instant application. Such structures are not present in the spacer according to Nylund.

Gustafsson discloses a spacer (see Fig. 2a and Fig. 2b), which is not formed of inner webs disposed crosswise to outer webs, as recited in claim 1 of the instant application. The inner webs of Gustafsson's spacer (as far as it is even possible to speak of "webs" at all in Gustafsson) do not cross in such a way as to form a frame with outer webs.

In order to clarify the manner in which the outer webs 8 in Figs. 2a and 2b of Gustafsson are constructed, Applicant has provided the enclosed copy of those figures in which Applicant has completely colored the two visible outer webs in Figs. 2a and partially colored one of the two webs in Fig. 2b. As can be gathered without doubt from the Gustafsson reference, in column 5, lines 6 et seq., an outer web (spacer frame) 8 has two different portions 15, 16 which are spaced apart differently from the inner wall of a fuel channel 2 encompassing the fuel assembly. The first portion 15 (green) corresponds to the original plane surface of the outer webs. The second portion 16 (yellow) protrudes therefrom in an elevated manner. Between the two portions, there is an obliquely running transition region 18, 21, which is colored in orange. It can easily be recognized through the use of the colored drawings and the section drawn in to the right of Fig. 2a in the drawings, that a structure as defined by the present invention is not found in the spacers of Gustafsson.

It is not understand what the first portion 16 of the spacer has to do with a "gill" structure in accordance with the invention. One could at most consider the portion colored in yellow with the openings 13 present therein as an element comparable to the gill in accordance with the invention.

However, what are missing from Gustafsson are projections as recited in claim 1 of the instant application, which project from the outside of the outer webs, namely farther than the gills (this corresponds to the portions 15, colored in green, of the Gustafsson spacer).

Clearly, neither Nylund nor Gustafsson show:

a frame formed with outer webs and inner webs oriented crossways with respect to one another, the outer webs having an outer side facing towards the inner side of the fuel assembly channel in an assembled state, or

gills formed on the outer side of the outer webs and projecting outward to a given extent from the outer side, the gills each including an opening in the outer web defining an upper edge of the opening and an adjoining wall region of the outer webs both being pre-curved outward,

as recited in claim 1 of the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art.

The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

In view of the foregoing, reconsideration and allowance of claims 1, 2 and 4-7 are solicited.

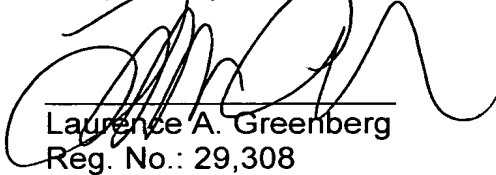
In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Appl. No. 10/692,637
Amdt. dated 2/24/09
Reply to Office action of 1/28/09

Petition for extension is herewith made. The extension fee for response within a period of three months pursuant to Section 1.136(a) in the amount of \$1,110.00 in accordance with Section 1.17 is enclosed herewith.

Please charge any other fees that might be due in the instant application with respect to Sections 1.16 and 1.17 to Deposit Account Number 12-1099 of Lerner Greenberg Stermer LLP.

Respectfully submitted,



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LAG/lq

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